

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION**

FRANCIS MICHAEL  
LONGOBARDO,

Plaintiff,

v.

Case No: 6:21-cv-1255-GKS-LRH

COMMISSIONER OF SOCIAL  
SECURITY,

Defendant.

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**REPORT AND RECOMMENDATION<sup>1</sup>**

**TO THE UNITED STATES DISTRICT COURT:**

This cause came on for consideration without oral argument on the following motion filed herein:

**MOTION: UNOPPOSED MOTION FOR ENTRY OF  
JUDGMENT WITH REVERSAL AND REMAND OF  
THE CAUSE TO THE DEFENDANT (Doc. No. 19)**

**FILED: October 19, 2021**

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**THEREON it is RECOMMENDED that the motion be GRANTED.**

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<sup>1</sup> On October 6, 2021, the parties filed a completed Notice, Consent, and Reference of a Civil Action to a Magistrate Judge, Doc. No. 16, but that consent has not yet been approved by the presiding District Judge.

The Commissioner of Social Security moves to remand this case pursuant to sentence four of 42 U.S.C. § 405(g), so that the following may occur:

The Commissioner requests remand to give further consideration to the claimant's respiratory impairments, and in doing so, further evaluate the medical evidence related to the claimant's oxygen use; give further consideration to the claimant's maximum residual functional capacity; and obtain supplemental evidence from a vocational expert to clarify the effect of the assessed limitations on the claimant's occupational base. The hypothetical questions should reflect the specific capacity/limitations established by the record as a whole. The Administrative Law Judge will ask the vocational expert to identify examples of appropriate jobs and to state the incidence of such jobs in the national economy. Further, before relying on the vocational expert evidence the Administrative Law Judge will identify and resolve any conflicts between the occupational evidence provided by the vocational expert and information in the Dictionary of Occupational Titles (DOT) and its companion publication, the Selected Characteristics of Occupations.

Doc. No. 19. Plaintiff consents to the motion. *Id.* at 2. Upon consideration, the undersigned finds the request well taken.

Accordingly, it is **RESPECTFULLY RECOMMENDED** that the Court:

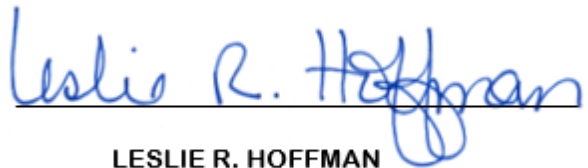
1. **GRANT** the Commissioner's Unopposed Motion for Entry of Judgment with Reversal and Remand of the Cause to the Defendant (Doc. No. 19);
2. **REVERSE and REMAND** the final decision of the Commissioner for further proceedings pursuant to sentence four of § 405(g) for the above-stated reason; and

3. **DIRECT** the Clerk of Court to enter judgment in favor of Plaintiff and against the Commissioner, and thereafter **CLOSE** this case.

**NOTICE TO PARTIES**

A party has fourteen days from the date the Report and Recommendation is served to serve and file written objections to the Report and Recommendation's factual findings and legal conclusions. Failure to serve written objections waives that party's right to challenge on appeal any unobjected-to factual finding or legal conclusion the district judge adopts from the Report and Recommendation. 11th Cir. R. 3-1.

Recommended in Orlando, Florida on October 19, 2021.



LESLIE R. HOFFMAN  
UNITED STATES MAGISTRATE JUDGE

Copies furnished to:

Presiding District Judge  
Counsel of Record  
Unrepresented Party  
Courtroom Deputy